HON'BLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G. BHAVANI PRASAD

WRIT APPEAL (SR) NO. 145576 OF 2005

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Between:

M/s Tirupati Plast Pvt. Limited,

Plot No. 26, Cooperative Industrial Estate,

Gandhi Nagar, Balanagar Extensions,

Hyderabad – 37 rep. by its Director,

Surendar Agarwal

……Petitioner/Appellant

And

Transmission Corporation of A.P Limited,

(A.P. TRANSCO) Rep. by its Chairman,

Managing Director, Vidyut Soudha,

Khairatabad, Hyderabad and others.

……Respondents/Respondents

:: JUDGMENT ::

Counsel for the Appellant : Mr. D.V. Nagarjuna Babu

Counsel for the Respondents : Mr. V. Ajay Kumar, Standing Counsel

Dated: 25-01-2006

Per G.S. SINGHVI, CJ

This appeal is directed against order dated 09-11-2005 passed by the learned Single Judge, whereby he granted interim relief to the appellant by directing the respondents not to disconnect power supply to its establishment subject to the condition of depositing 50% of the disputed demand.

Learned counsel for the appellant argued that the issue raised in the main writ petition is covered by the judgment of this Court in **M/s. Brilliant Industries Vs. A.P. TRANSCO** and therefore, by refusing to grant unconditional stay, the learned Single Judge will be deemed to have committed a serious error which should be corrected by the Division Bench.

Learned counsel for the respondents submits that the issue raised in the petition is not covered by the ratio of the judgment in **M/s. Brilliant Industries case**[1] (supra) and the learned Single Judge did not commit any error by granting conditional stay.

In our opinion, it is neither proper nor justified for us to make any observation about the appellant's plea that the action taken by the respondents for recovery of

the disputed amount is without jurisdiction or is ultra vires the provisions of the Constitution or any law enacted by the Legislature but we are convinced that the interim order passed by the learned Single Judge, which is subject matter of appeal does not suffer from any patent infirmity. Rather, the condition imposed by the learned Single Judge requiring the appellant to deposit half of the disputed amount is most equitable and just.

In view of the above, we do not find any justification to accept the appellant's prayer for grant of unconditional stay. Consequently, the appeal is dismissed.

However, liberty is given to the appellant to apply to the learned Single Judge for expediting hearing of the main petition.

At this stage, learned counsel for the appellant made a request that his client may be allowed two weeks time to deposit 50% amount in terms of the direction given by the learned Single Judge. Learned counsel for the respondents says that he does not have any objection.

In view of the above, we grant two weeks further time to the appellant to deposit 50% of the demand created by the respondents. If the appellant fails to deposit 50% amount within the extended period then the respondents shall not only be at liberty but duty bound to disconnect supply to the establishment of the appellant.

G.S. SINGHVI, CJ

G. BHAVANI PRASAD, J

25-01-2005

ks/svs